

Assembly Bill No. 3050

Passed the Assembly August 15, 2002

Chief Clerk of the Assembly

Passed the Senate August 12, 2002

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Sections 127280, 128736, 128737, 129075, 129085, 129174, 129680, 129725, 129785, and 129905 of, and to repeal Section 129845 of, the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 3050, Committee on Health. Health facilities.

(1) Existing law, commencing January 1, 2002, requires each hospital and freestanding ambulatory surgery clinic to file, with the Office of Statewide Health Planning and Development, specified reports containing various patient and health data information.

This bill would extend the operative date of these provisions to January 1, 2004.

(2) Existing law, commencing January 1, 2002, requires freestanding ambulatory surgery clinics to be charged a fee established by the office consistent with specified statutory requirements.

This bill would impose this requirement commencing in calendar year 2004.

(3) The existing California Health Facility Construction Loan Insurance Law provides, without cost to the state, an insurance program for health facility construction, improvement, and expansion loans in order to stimulate the flow of private capital into health facilities construction, improvement, and expansion, and in order to meet the need for new, expanded, and modernized public and nonprofit health facilities. Existing law imposes various functions and duties on the Office of Statewide Health Planning and Development with respect to the administration of this program.

Existing law authorizes the office to take certain steps in the event of a borrower's default.

This bill would also authorize the office to require the lender or borrower's bond trustee to accelerate the borrower's debt and maturity dates of the bonds, if any. It would require the office to pay the lender or borrower's bond trustee the full amount of the remaining principal of the loan and other prescribed amounts.



(4) The bill would eliminate an obsolete provision of law and would also make various technical, nonsubstantive, and conforming changes to all of the above provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 127280 of the Health and Safety Code is amended to read:

127280. (a) Every health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, except a health facility owned and operated by the state, shall each year be charged a fee established by the office consistent with the requirements of this section.

(b) Commencing in calendar year 2004, every freestanding ambulatory surgery clinic as defined in Section 128700, shall each year be charged a fee established by the office consistent with the requirements of this section.

(c) The fee structure shall be established each year by the office to produce revenues equal to the appropriation made in the annual Budget Act or another statute to pay for the functions required to be performed by the office and the California Health Policy and Data Advisory Commission pursuant to this chapter, Article 2 (commencing with Section 127340) of Chapter 2, or Chapter 1 (commencing with Section 128675) of Part 5, and to pay for any other health-related programs administered by the office. The fee shall be due on July 1 and delinquent on July 31 of each year.

(d) The fee for a health facility that is not a hospital, as defined in subdivision (c) of Section 128700, shall be not more than 0.035 percent of the gross operating cost of the facility for the provision of health care services for its last fiscal year that ended on or before June 30 of the preceding calendar year.

(e) The fee for a hospital, as defined in subdivision (c) of Section 128700, shall be not more than 0.035 percent of the gross operating cost of the facility for the provision of health care services for its last fiscal year that ended on or before June 30 of the preceding calendar year.

(f) (1) The fee for a freestanding ambulatory surgery clinic shall be established at an amount equal to the number of ambulatory surgery data records submitted to the office pursuant



to Section 128737 for encounters in the preceding calendar year multiplied by not more than fifty cents (\$0.50).

(2) (A) For the calendar year 2004 only, a freestanding ambulatory surgery clinic shall estimate the number of records it will file pursuant to Section 128737 for the calendar year 2004 and shall report that number to the office by March 12, 2004. The estimate shall be as accurate as possible. The fee in the calendar year 2004 shall be established initially at an amount equal to the estimated number of records reported multiplied by fifty cents (\$0.50) and shall be due on July 1 and delinquent on July 31, 2004.

(B) The office shall compare the actual number of records filed by each freestanding clinic for the calendar year 2004 pursuant to Section 128737 with the estimated number of records reported pursuant to subparagraph (A). If the actual number reported is less than the estimated number reported, the office shall reduce the fee of the clinic for calendar year 2005 by the amount of the difference multiplied by fifty cents (\$0.50). If the actual number reported exceeds the estimated number reported, the office shall increase the fee of the clinic for calendar year 2005 by the amount of the difference multiplied by fifty cents (\$0.50) unless the actual number reported is greater than 120 percent of the estimated number reported, in which case the office shall increase the fee of the clinic for calendar year 2005 by the amount of the difference, up to and including 120 percent of the estimated number, multiplied by fifty cents (\$0.50), and by the amount of the difference in excess of 120 percent of the estimated number multiplied by one dollar (\$1).

(g) There is hereby established the California Health Data and Planning Fund within the office for the purpose of receiving and expending fee revenues collected pursuant to this chapter.

(h) Any amounts raised by the collection of the special fees provided for by subdivisions (d), (e), and (f) that are not required to meet appropriations in the Budget Act for the current fiscal year shall remain in the California Health Data and Planning Fund and shall be available to the office and the commission in succeeding years when appropriated by the Legislature in the annual Budget Act or another statute, for expenditure under the provisions of this chapter, Article 2 (commencing with Section 127340) of Chapter 2, and Chapter 1 (commencing with Section 128675) of Part 5, or for any other health-related programs administered by the office,



and shall reduce the amount of the special fees that the office is authorized to establish and charge.

(i) (1) No health facility liable for the payment of fees required by this section shall be issued a license or have an existing license renewed unless the fees are paid. A new, previously unlicensed, health facility shall be charged a pro rata fee to be established by the office during the first year of operation.

(2) The license of any health facility, against which the fees required by this section are charged, shall be revoked, after notice and hearing, if it is determined by the office that the fees required were not paid within the time prescribed by subdivision (c).

(j) This section shall become operative on January 1, 2002.

SEC. 2. Section 128736 of the Health and Safety Code is amended to read:

128736. (a) Each hospital shall file an Emergency Care Data Record for each patient encounter in a hospital emergency department. The Emergency Care Data Record shall include all of the following:

- (1) Date of birth.
- (2) Sex.
- (3) Race.
- (4) Ethnicity.
- (5) Principal language spoken.
- (6) ZIP Code.
- (7) Patient social security number, if it is contained in the patient's medical record.
- (8) Service date.
- (9) Principal diagnosis.
- (10) Other diagnoses.
- (11) Principal external cause of injury.
- (12) Other external cause of injury.
- (13) Principal procedure.
- (14) Other procedures.
- (15) Disposition of patient.
- (16) Expected source of payment.
- (17) Elements added pursuant to Section 128738.

(b) It is the expressed intent of the Legislature that the patient's rights of confidentiality shall not be violated in any manner. Patient social security numbers and any other data elements that the office believes could be used to determine the identity of an



individual patient shall be exempt from the disclosure requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(c) No person reporting data pursuant to this section shall be liable for damages in any action based on the use or misuse of patient-identifiable data that has been mailed or otherwise transmitted to the office pursuant to the requirements of subdivision (a).

(d) Data reporting requirements established by the office shall be consistent with national standards as applicable.

(e) This section shall become operative on January 1, 2004.

SEC. 3. Section 128737 of the Health and Safety Code is amended to read:

128737. (a) Each hospital and freestanding ambulatory surgery clinic shall file an Ambulatory Surgery Data Record for each patient encounter during which at least one ambulatory surgery procedure is performed. The Ambulatory Surgery Data Record shall include all of the following:

- (1) Date of birth.
 - (2) Sex.
 - (3) Race.
 - (4) Ethnicity.
 - (5) Principal language spoken.
 - (6) ZIP Code.
 - (7) Patient social security number, if it is contained in the patient's medical record.
 - (8) Service date.
 - (9) Principal diagnosis.
 - (10) Other diagnoses.
 - (11) Principal procedure.
 - (12) Other procedures.
 - (13) Principal external cause of injury, if known.
 - (14) Other external cause of injury, if known.
 - (15) Disposition of patient.
 - (16) Expected source of payment.
 - (17) Elements added pursuant to Section 128738.
- (b) It is the expressed intent of the Legislature that the patient's rights of confidentiality shall not be violated in any manner. Patient social security numbers and any other data elements that



the office believes could be used to determine the identity of an individual patient shall be exempt from the disclosure requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(c) No person reporting data pursuant to this section shall be liable for damages in any action based on the use or misuse of patient-identifiable data that has been mailed or otherwise transmitted to the office pursuant to the requirements of subdivision (a).

(d) Data reporting requirements established by the office shall be consistent with national standards as applicable.

(e) This section shall become operative on January 1, 2004.

SEC. 4. Section 129075 of the Health and Safety Code is amended to read:

129075. (a) Each borrower shall provide any reports as may be required of it by Part 5 (commencing with Section 128675), from which the office shall determine the borrower's compliance with subdivision (j) of Section 129050.

(b) If a report indicates noncompliance with subdivision (j) of Section 129050, Section 129055, or Section 129065, the office shall require the borrower to submit a plan detailing the steps and timetables the borrower will take to bring the facility into compliance.

(c) The office shall annually report to the Legislature the extent of the borrowers' compliance with their community service obligations pursuant to subdivision (j) of Section 129050, Section 129055, and Section 129065.

SEC. 5. Section 129085 of the Health and Safety Code is amended to read:

129085. (a) If a borrower is unable to comply with subdivision (j) of Section 129050 due to selective provider contracting under the Medi-Cal program, and the office has determined the borrower has negotiated in good faith but was not awarded a contract, the borrower may be eligible for insurance under this chapter as provided in subdivision (b).

(b) The office may determine that a noncontracting borrower shall be considered as meeting the requirements of subdivision (j) of Section 129050 if the borrower otherwise provides a community service in accordance with regulations adopted by the



office. The regulations shall describe alternative methods of meeting the obligation, that may include, but not be limited to, providing free care, charity care, trauma care, community education, or primary care outreach and care to the elderly, in amounts greater than the community average. The regulations shall include a requirement that a general acute care hospital, that is not a small and rural hospital as defined in Section 124840, shall have, and continue to maintain, a 24-hour basic emergency medical service with a physician on duty, if it provided this service on January 1, 1990. The office shall have the authority to waive this requirement upon a determination by the director that this requirement would create a hardship for the hospital, be inconsistent with regionalization of emergency medical services, or not be in the best interest of the population served by the hospital.

SEC. 6. Section 129174 of the Health and Safety Code is amended to read:

129174. (a) In the event a borrower has defaulted in making its payments on the loan insured by the office to the lender or the borrower's bond trustee, at any time thereafter, the office may do any of the following:

(1) Decease a portion or all of the bonds or may purchase a portion or all of the bonds at a private or public sale or on the open market. For this purpose, the office may use any funds available, including, but not limited to, funds in the Health Facility Construction Loan Insurance Fund, funds that the office may receive either from settlement or recoveries from lawsuits, funds from the sale of assets of the borrower, or funds held by the borrower's bond trustee. If requested by the office, the Treasurer shall purchase the bonds on behalf of the office. Upon the purchase of any bonds under this section, the office shall direct the borrower's bond trustee to cancel the bonds purchased.

(2) Issue bonds used for the sole purpose of refunding any part or all of the defaulted bonds, provided that, in the opinion of the office, there are adequate present value savings to refund all or part of the defaulted bonds. If requested by the office, the Treasurer shall act as the issuer for this purpose.

(3) Require the lender or borrower's bond trustee to accelerate the borrower's debt and the maturity dates of the bonds, if any. If the bond trustee accelerates the bond debt and maturity dates, the



office shall pay from the fund to the lender or borrower's bond trustee the full amount of the remaining principal of the loan, any interest accrued and unpaid on this amount, and any costs enumerated in Section 129125.

(b) For the purposes of this section, "bonds" mean bonds, certificate of participation, notes, or other evidence of indebtedness of a loan insured by the office.

SEC. 7. Section 129680 of the Health and Safety Code is amended to read:

129680. (a) It is the intent of the Legislature that hospital buildings that house patients who have less than the capacity of normally healthy persons to protect themselves, and that must be reasonably capable of providing services to the public after a disaster, shall be designed and constructed to resist, insofar as practical, the forces generated by earthquakes, gravity, and winds. In order to accomplish this purpose, the office shall propose proper building standards for earthquake resistance based upon current knowledge, and provide an independent review of the design and construction of hospital buildings.

(b) Local jurisdictions are preempted from the enforcement of all building standards published in the California Building Standards Code relating to the regulation of hospital buildings and the enforcement of other regulations adopted pursuant to this chapter, and all other applicable state laws, including plan checking and inspection of the design and details of the architectural, structural, mechanical, plumbing, electrical, and fire and panic safety systems, and the observation of construction. The office shall assume these responsibilities.

(c) Where local jurisdictions have more restrictive requirements for the enforcement of building standards, other building regulations, and construction supervision, these requirements shall be enforced by the office.

(d) Each local jurisdiction shall keep the office advised as to the existence of any more restrictive local requirements. Where a reasonable doubt exists as to whether the requirements of the local jurisdiction are more restrictive, the effect of these requirements shall be determined by the Hospital Building Safety Board.

It is further the intent of the Legislature that the office, with the advice of the Hospital Building Safety Board, may conduct or enter into contracts for research regarding the reduction or



elimination of seismic or other safety hazards in hospital buildings or research regarding hospital building standards.

SEC. 8. Section 129725 of the Health and Safety Code is amended to read:

129725. (a) (1) “Hospital building” includes any building not specified in subdivision (b) that is used, or designed to be used, for a health facility of a type required to be licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.

(2) Except as provided in paragraph (7) of subdivision (b), hospital building includes a correctional treatment center, as defined in subdivision (j) of Section 1250, the construction of which was completed on or after March 7, 1973.

(b) “Hospital building” does not include any of the following:

(1) Any building where outpatient clinical services of a health facility licensed pursuant to Section 1250 are provided that is separated from a building in which hospital services are provided. If any one or more outpatient clinical services in the building provides services to inpatients, the building shall not be included as a “hospital building” if those services provided to inpatients represent no more than 25 percent of the total outpatient services provided at the building. Hospitals shall maintain on an ongoing basis, data on the patients receiving services in these buildings, including the number of patients seen, categorized by their inpatient or outpatient status. Hospitals shall submit this data annually to the State Department of Health Services.

(2) Any building used, or designed to be used, for a skilled nursing facility or intermediate care facility if the building is of single-story, wood-frame or light steel frame construction.

(3) Any building of single-story, wood-frame or light steel frame construction where only skilled nursing or intermediate care services are provided if the building is separated from a building housing other patients of the health facility receiving higher levels of care.

(4) Any freestanding structures of a chemical dependency recovery hospital exempted under subdivision (c) of Section 1275.2.

(5) Any building licensed to be used as an intermediate care facility/developmentally disabled habilitative with six beds or less and any intermediate care facility/developmentally disabled



habilitative of 7 to 15 beds that is a single-story, wood-frame or light steel frame building.

(6) Any building subject to licensure as a correctional treatment center, as defined in subdivision (j) of Section 1250, the construction of which was completed prior to March 7, 1973.

(7) (A) Any building that meets the definition of a correctional treatment center, pursuant to subdivision (j) of Section 1250, for which the final design documents were completed or the construction of which was begun prior to January 1, 1994, operated by or to be operated by the Department of Corrections, the Department of the Youth Authority, or by a law enforcement agency of a city, county, or a city and county.

(B) In the case of reconstruction, alteration, or addition to, the facilities identified in this paragraph, and paragraph (6) or any other building subject to licensure as a general acute care hospital, acute psychiatric hospital, correctional treatment center, or nursing facility, as defined in subdivisions (a), (b), (j), and (k) of Section 1250, operated or to be operated by the Department of Corrections, the Department of the Youth Authority, or by a law enforcement agency of a city, county, or city and county, only the reconstruction, alteration, or addition, itself, and not the building as a whole, nor any other aspect thereof, shall be required to comply with this chapter or the regulations adopted pursuant thereto.

SEC. 9. Section 129785 of the Health and Safety Code is amended to read:

129785. The office shall determine an application filing fee that will cover the costs of administering this chapter. The fee shall not exceed 2 percent of the estimated construction cost. The fee shall be established in accordance with applicable procedures established in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

The minimum fee in any case shall be two hundred fifty dollars (\$250).

The office shall issue an annual permit upon submission, pursuant to Section 129765, of an application for a project only if its estimated construction cost is twenty-five thousand dollars (\$25,000) or less. The cost of this annual permit shall be two hundred fifty dollars (\$250) and this fee shall constitute the filing



fee and shall cover all projects undertaken for a particular skilled nursing or intermediate care facility by the applicant up to an estimated construction cost of twenty-five thousand dollars (\$25,000) during the state fiscal year in which the annual permit is issued. The fees for projects over the twenty-five thousand dollar (\$25,000) limit shall be assessed at a rate established by the office in regulation. However, the rate established by the office shall not exceed 1.5 percent of the estimated construction cost for projects of skilled nursing and intermediate care facilities, as defined in subdivision (c), (d), (e), or (g) of Section 1250.

If the actual construction cost exceeds the estimated construction cost by more than 5 percent, a further fee shall be paid to the office, based on the above schedule and computed on the amount that the actual cost exceeds the amount of the estimated cost. If the estimated construction cost exceeds the actual construction cost by more than 5 percent, the office shall refund the excess portion of any paid fees, based on the above schedule and computed on the amount that the estimated cost exceeds the amount of the actual cost. A refund shall not be required if the applicant did not complete construction or alteration of 75 percent of the square footage included in the project, as contained in the approved drawings and specifications for the project. In addition, the office shall adopt regulations specifying other circumstances when the office shall refund to an applicant all or part of any paid fees for projects submitted under this chapter. The regulations shall include, but not be limited to, refunds of paid fees for a project that is determined by the office to be exempt or otherwise not reviewable under this chapter, and for a project that is withdrawn by the applicant prior to the commencement of review by the office of the drawing and specifications submitted for the project. All refunds pursuant to this section shall be paid from the Hospital Building Account in the Architecture Public Building Fund, as established pursuant to Section 129795.

SEC. 10. Section 129845 of the Health and Safety Code is repealed.

SEC. 11. Section 129905 of the Health and Safety Code is amended to read:

129905. Subject to the complete exemption contained in paragraphs (6) and (7) of subdivision (b) of Section 129725, and notwithstanding any other provision of law, plans for the



construction or alteration of any hospital building, as defined in Section 1250, or any building specified in Section 129875, that are prepared by or under the supervision of the Department of Corrections or on behalf of the Department of the Youth Authority, shall not require the review and approval of the statewide office. In lieu of review and approval by the statewide office, the Department of Corrections and the Department of the Youth Authority shall certify to the statewide office that their plans and construction are in full conformance with all applicable building standards, including, but not limited to, fire and life and safety standards, and the requirements of this chapter for the architectural, structural, mechanical, plumbing, and electrical systems. The Department of Corrections and the Department of the Youth Authority shall use a secondary peer review procedure to review designs to ensure the adherence to all design standards for all new construction projects, and shall ensure that the construction is inspected by a competent, onsite inspector to ensure the construction is in compliance with the design and plan specifications.

Subject to the complete exemption contained in paragraphs (6) and (7) of subdivision (b) of Section 129725, and notwithstanding any other provision of law, plans for the construction or alteration of any correctional treatment center that are prepared by or under the supervision of a law enforcement agency of a city, county, or city and county shall not require the review and approval of the statewide office. In lieu of review and approval by the statewide office, the law enforcement agency of a city, county, or city and county shall certify to the statewide office that the plans and construction are in full conformance with all applicable building standards, including, but not limited to, fire and life and safety standards, and the requirements of this chapter for the architectural, structural, mechanical, plumbing, and electrical systems.

It is the intent of the Legislature that, except as specified in this section, all hospital buildings as defined by this chapter constructed by or under the supervision of the Department of Corrections or local law enforcement agencies, or constructed on behalf of the Department of the Youth Authority shall at a minimum meet all applicable regulations adopted pursuant to this chapter and all other applicable state laws.



Approved _____, 2002

Governor

